

Local Law Filing

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Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County
City
Town of Kings Point
Village

Local Law 16 of the year 2023

(Insert Title)

A local law amending the Code of the Village of Kings Point with regard to the maintenance of private streets.

Be it enacted by the Board of Trustees of the
(Name of Legislative Body)

County
City
Town of Kings Point
Village

Section 1. Legislative intent.

- A Pursuant to Village Law § 4-412, the Board of Trustees is charged with taking such action as it deems expedient or desirable for the safety, health, comfort, and general welfare of its inhabitants and the protection of their property.
- B. In the event that private streets are not properly maintained, or that such streets are not cleaned of snow and ice to the extent necessary for emergency vehicles to provide life-saving ambulance and police and fire protection to the residents who live on those streets and their properties, the Village cannot provide the expedient protection to those residents and their properties that Board of Trustees' desires.
- C. Although, in the past, some residents along private streets have plowed the snow in front of their premises, others have not, such that emergency vehicles cannot

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reach the plowed portions of the private street because they are blocked by the unplowed portions of the street.

- D. It is the intent of this law to require the appropriate property owners to maintain the portions of the private streets adjoining their property so that all of the property owners along the private streets pay their fair share of such maintenance and only permitting the Village to perform such maintenance when the public safety is at risk and, in such instances, to charge the cost of such maintenance against the property owner that failed to do so.

Section 2. The definition of "Person" in subsection B, of § 117-1, Purposes; definitions, of Chapter 117, Property Maintenance, of the Code of the Village of Kings Point, is hereby amended to read as follows:

"PERSON

Includes the owner, tenant, occupant, or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, sublessee, agent, or any other individual, firm, or corporation directly or indirectly in control of any premises, building, private street, or part thereof."

Section 3. Subsections J and K of § 117-2, Exterior maintenance, of said Chapter are deleted.

Section 4. Chapter 134, Streets and Sidewalks, is hereby amended by adding a new Article VIII, Private Streets, to read as follows:

**"Article VIII
Private Streets**

§ 134-40. Definitions.

EMERGENCY VEHICLES – police, fire, ambulance, and Village vehicles.

PERSON - the owner, tenant, occupant, or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, sublessee, agent, or any other individual, firm, or corporation directly or indirectly in control of any private street or part thereof.

PRIVATE STREET- A highway, boulevard, concourse, road, avenue, lane, alley, court, cul-de-sac, drive, or thoroughfare within the Village more than 12 feet in width, which serves more than one residential dwelling and which is not owned or maintained on a regular basis by deed, easement, acceptance of dedication, or prescription by a municipality. In any prosecution or other proceeding based upon an alleged violation of this article, it shall be an affirmative defense that the subject street was owned or maintained on a regular basis by deed, easement, acceptance of dedication, or prescription by a municipality.

§ 134-41. Required maintenance.

Every person shall be responsible for the following maintenance of that portion of the private street that adjoins such person's property:

- A. All private streets shall be maintained in good condition and free of litter, refuse, and other debris to the extent necessary and reasonable to afford safe passage for emergency vehicles. In the extent that tree pruning or removal is required to provide such safe passage, such pruning or removal shall be subject to the provisions of the Village's regulation on the preservation of trees.
- B. Within 24 hours after the cessation of a snowfall, the snow shall be plowed, blown, shoveled, or otherwise cleared from all private streets to the extent necessary and reasonable to afford safe passage for emergency vehicles.

§ 134-42. Violations.

- A. Unless such failure prevents the safe passage of emergency vehicles, it shall be a violation of this article if a person fails to comply with subsection A of § 134-41 within seven calendar days after a directive to comply by the Village Building Department.
- B. During a snowstorm, the snow shall be plowed, blown, shoveled, cleared of ice, salt and sanded as necessary or otherwise cleared from all private streets to, to the extent necessary and reasonable to afford safe passage for emergency vehicles.
- C. In the event that a failure to comply with subsection A of § 134-41 prevents the safe passage of emergency vehicles, it shall be a violation of this article if a person fails to comply with subsection A of § 134-41 within two calendar days after a directive to comply by the Village Building Department.
- D. In the event that a failure to comply with subsections B or C of § 134-41 prevents the safe passage of emergency vehicles, it shall be a violation of this article without any notice having to be given to the person.

§ 134-43. Notice.

The notice required pursuant to § 134-42 shall be deemed sufficient in any of the following manners:

- A. Hand-delivered to an owner of the property.
- B. Hand-delivered to a person of suitable age and discretion at the dwelling on the property.
- C. Email to the email address provided to any department of the Village by an owner or resident of the property.

- D. Placing the notice on the front door of the dwelling on the property, if any, and calling the telephone number provided by the owner or resident of the dwelling at the last telephone number provided to any department of the Village and informing the person who answers the telephone or leaving a message on an answering device, advising the person of the notice.

§ 134-43. Penalty.

Any person who violates this article shall be subject to the penalties set forth in chapter 116, Penalties, of this Code.

§ 134-44. Performance of work by Village; assessment of costs.

- A. Upon a person's violation of this article, in addition to any penalties that may be imposed, if the Village has performed or effectuated through a third party any of the maintenance for which such person was responsible, the actual cost thereof shall be charged by the Village to the owner of the property for which such person was responsible, and such charge shall become due and payable by the owner at the time of the Village effecting such compliance.
- B. If all or any part of the work is performed by the Village, the cost shall include:
 - (1) The total cost to the Village of its employees' time, administrative and labor, including salary, plus the cost of fringe benefits, which shall include, but not be limited to, health insurance, life insurance, dental insurance, unemployment, excise, and payroll taxes, retirement benefits, sick leave, vacation, holiday, and personal time off, to the extent applicable, as calculated by the Village Clerk. The administrative time may be set at either \$500 or based upon the actual time spent on the matter; and
 - (2) The cost of the Village's General Counsel at its non-retainer hourly rate.
- C. If the full amount due the Village is not paid within 20 days after a bill for such maintenance is sent by certified mail, return receipt requested, to the last owner of record as shown on the Village's assessment roll, then, and in that event, the Superintendent of Public Works Department shall cause to be filed in the office of the Village Administrator a sworn statement showing the cost and expense incurred for the maintenance, the dates the maintenance was performed, the location, by section, block, and lot, of the property for which the maintenance was performed, and the name of owner of the property as shown on the Village's assessment roll.
- D. The filing of such sworn statement shall constitute a lien on the property and shall remain in full force and effect for the amount due in principal and interest, plus the costs and expenses, including attorneys' fees, if any, for collection, until final payment has been made. Such interest shall be charged at the accrued legal rate of

interest per annum from the date of the completion of the work or for the Village's payment for such work. Sworn statements filed in accordance with the provisions hereof:

- (1) Shall be prima facie evidence that all legal formalities have been complied with;
- (2) That the work has been performed to the satisfaction of the Superintendent of the Department of Public Works; and
- (3) Shall be full notice to every person concerned that the amount of the statement, plus interest, constitutes a charge against the property designated and described in the statement and that the same is due and collectible as provided by law.

E. In the event that the bill is unpaid when the Village is preparing its next annual assessment roll, the lien shall be added to the assessment roll for the property and collected in the manner fixed by law for the collection of the Village's real property taxes. In that event, interest as provided in Subsection D shall be fixed, and the full amount, with that fixed interest, shall be subject to a delinquent penalty at the legal rate of interest for Village real property taxes in the event that the same is not paid in full on or before the date the tax bill upon which such charge appears becomes delinquent.”